

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

FRIDAY, THE 23RD FEBRUARY 2007 / 4TH PHALGUNA 1928

WP(C).No. 6188 of 2007(J)

PETITIONER:

K. DAMODARAN, S/O.LATE K.P. MENON,
AGED 67 YEARS, A-8, NEW CIVL NAGAR,
BEHIND CIVIL STATION, PALAKKAD.

BY ADV. SRI.JACOB SEBASTIAN

RESPONDENTS:

1. THE ADDITIONAL DISTRICT MAGISTRARE,
PALAKKAD.
2. THE BHARATH OVERSEAS BANK, HABEEB
TOWERS, NO.196, ANNA SALAI, CHENNAI, REP.
BY ITS AUTHORISED OFFICER (BRANCH MANAGER)
PALAKKAD BRANCH, DOOR NO.11/194(1),
SUDEVAN ROAD, SULTANPET, PALAKKAD.

R1 BY GOVT. PLEADER SRI.I.V.PRAMOD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 23/02/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

THOTTATHIL B.RADHAKRISHNAN, J

W.P(C).No.6188 OF 2007

Dated this the 23rd day of February, 2007

JUDGMENT

Having regard to the nature of the order being issued hereunder, notice to the second respondent is dispensed with, without prejudice to the second respondent to move this court to vacate this judgment, if so advised.

2. The petitioner has availed different loans from the second respondent Bank and also provided certain properties as mortgage in support of one of them. Learned counsel for the petitioner submits that the said properties may not be proceeded against in satisfaction of the other loans. This contention cannot be accepted because the mortgaged properties are being proceeded against under the Securitisation Act not merely as a mortgage only, but as an item of property available in the custody of the Bank for the purpose of satisfying the outstandings. As a result, I do not find any ground to interfere with the recovery action.

3. At this stage, the learned counsel for the petitioner made a request that the petitioner may be given a breathing time to pay off the entire outstandings. In the aforesaid circumstances, it is directed that if the entire outstandings due are paid in four equal monthly instalments, payable on or before the last working day of every month, commencing from February, 2007, the impugned distress action shall be dropped. However, if the petitioner fails to remit the amounts as aforesaid, the benefit of this judgment shall stand recalled automatically and the respondents will be entitled to forthwith proceed with further action.

The writ petition is disposed of with the above direction.

The office will communicate this order in the Palakkad address of the second respondent. Petitioner to pay necessary process/bata for such communication.

THOTTATHIL B.RADHAKRISHNAN
Judge

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